In the High Court of Judicature at Madras

Dated: 16/09/2004

Coram

The Honourable Mr.Justice V.KANAGARAJ

Writ Petition No.786 of 2002 and Writ Petition No. 10844 of 2001

A.Jayakumar .. Petitioner in both W.Ps.

-Vs-

1. The Chairman
State Level Committee
(Secretary to government
Adi Dravida &
Tribals Welfare Department
Fort St.George
Chennai.9.
2. The Collector of Chennai
Chennai. ... Respondents in
W.P.No.786 of 2002

1. The Zonal Manager
Life Insurance Corporation of India
South Zonal Office
LIC Building
Anna Salai
Chennai.2
2. The Manager
LIC C.B.O.XVIII
Perambur Branch Officer
27/1 Tiruvengadam street
Perambur
Chennai.11. ... Respondents in
W.P.No.10844 of 2001

Prayer: Petitions filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorari and Writ of Certiorarified Mandamus as stated therein.

For petitioner : Mr.M.Govindarajan

For respondents : Ms.Velumani, AGP for RR1 & 2 in W.P.No.786 of 2002

Mr.M.Jagadeesan for RR1 & 2

in W.P.No.10844 of 2001

:O R D E R

The writ petition W.P.No.786 of 2002 has been filed by the petitioner against the Government praying to issue a Writ of Certiorari praying to call for the records of the first respondent in Proceedings No.25322/ADW 2/2000-2 dated 20.09.2001, and the records of the second respondent in No.P3/30677/98 dated 20.07.2000 and to quash the same, as illegal.

2. The writ petition W.P.No.10844 of 2001 has been filed against the Life Insurance Corporation of India praying to issue a writ of Certiorarified Mandamus to call for the records of the second respondent in P.& I.R./D.O.II dated 11.08.2000, and the records of the first respondent in

S2/IR/3542 dated 24.11.2000 and quash the same as illegal and consequently direct the respondents to reinstate the petitioner in service with continuity of service and attendant benefits.

3. From the affidavits filed in support of the writ petitions, what comes to be known is that the petitioner was appointed as an Assistant in the Life Insurance corporation of India on 11.09.1980 and his service was confirmed on 28.02.1981; that the petitioner belongs to Kammara community which falls under Scheduled Tribe and was enjoying the said status for a very long time; that pursuant to the request made by the Senior Divisional Officer for production of a fresh community certificate in the permanent Card Format, the petitioner applied for the same; that without any proper enquiry, the petitioner's community certificate was cancelled by the second respondent; that consequent to the cancellation of the petitioner's community Certificate, the Senior Divisional Manager by his order dated 11.08.2000, without giving any notice to the petitioner, terminated him from service; that the petitioner challenged the said dismissal order by way of writ petition in W.P.No.14317 of 2000 and the same was disposed of with a direction to the petitioner to exhaust the appeal remedy before the appellate authority; that the petitioner preferred an appeal to the Zonal Manager on 28.08.2000 and the said appeal was rejected on 24.11.20 00; that challenging the same, the petitioner has filed W.P.No.10844 of 2002.

4. The petitioner filed an appeal before the State Level Committee against the orders of the second respondent dated 20.07.2000, that is, the District Collector of Chennai and the same was dismissed on 2 0.09.2001 and hence, the petitioner has come forward with the above writ petitions with the prayer stated supra.

4. The respondents, not only filed counter denying all the averments in the affidavit filed in support of the writ petition in W.P. No.10844 of 2001, would also submit that on the basis of a certificate allegedly issued by the Tahsildar, Triplicane-Mylapore that the petitioner belonged to Hindu-Kammara community representing the Scheduled Tribe category, the petitioner was appointed in the respondent Corporation in the year 1980; that subsequent inquiries revealed that in his School records, he had shown his community as "Hindu Naidu"; that in spite of several opportunities, the

petitioner could not prove his status as Scheduled Tribe, resulting in the cancellation of the Community Certificate submitted by him at the time of his appointment; and hence, the second respondent terminated the services of the petitioner by orders dated 11.08.2000. The petitioner immediately filed a writ petition in W.P.No.14317 of 2000 and the said writ petition was disposed of on 24.08.2000 with the observation for the petitioner to approach the appropriate authority by way of appeal since he has got appeal remedy. The petitioner preferred an appeal accordingly and the Appellate Authority has held that there was no merit in the claim of the petitioner and confirmed the order of termination. The respondents would further submit that there is no motive, ill-intention, illegality or infirmity in the above orders of termination and hence, pray for the dismissal of the Writ Petition No.10844 of 2001.

5. During arguments, learned counsel appearing on behalf of the petitioner in both the writ petition and the learned Additional Government Pleader appearing on behalf of the Government, only reiterated the facts extracted supra with no law argued nor any new fact or circumstance brought forth.

6. During arguments, learned counsel appearing on behalf of the respondents-Life Insurance Corporation reiterating the facts extracted supra would rely on the decisions reported in AIR 1995 SC, 94 (MATHURI PATIL v. ADDITIONAL COMMISSIONER TRIBAL DEVELOPMENT) and another in AIR 1995 SC 1506 (DIRECTOR OF TRIBUNAL WELFARE, GOVERNMENT OF ANDHRA PRADESH v LAVETI GIRI AND ANOTHER) to show that the Supreme Court has formulated certain guidelines to be followed in the matter of community certificate cases. In paragaraph 15 at page 1511 is extracted below:

"As soon as the findings is recorded by the Scrutiny Committee holding that the certificate obtained was false, on its cancellation and confiscation simultaneously, it should be communicated to the educational institution concerned or the appointing authority by registered post with acknowledgment due with a request to cancel the admission of the appointment. The Principal etc. of the educational institution responsible for making the admission or the appointing authority, should cancel the admission/appointment without any further notice to the candidate and debar the candidate from further study or, continue in office in a post".

7. In consideration of the facts pleaded, having regard to the materials placed on record and upon hearing the learned counsel appearing for both in both the above writ petitions, this Court is of the view that the respondents have followed the guidelines formulated by the Hon'ble Supreme Court and hence, there cannot be any second opinion and there is no facts at all in the case of the petitioner in both the writ petitions and both the writ petitions are bereft of merits and hence the following Order.

In result,

(i) the above writ petition is dismissed;

(ii) No costs.

Index : Yes
Internet : Yes

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